

SENATE BILL 688

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CF 0lr3219

By: **Senators Klausmeier and Elfreh**

Introduced and read first time: February 3, 2020

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Commissioner of Labor and Industry – Construction Services – Stop Work**
3 **Orders**

4 FOR the purpose of requiring the Commissioner of Labor and Industry to issue a certain
5 stop work order to certain employers for certain violations of certain provisions of
6 law; providing that a certain stop work order takes effect at a certain time and
7 remains in effect until the Commissioner takes a certain action; requiring the
8 Commissioner to issue an order releasing a certain stop work order under certain
9 circumstances; authorizing the Commissioner to order certain employers to file
10 certain periodic reports as a condition of releasing a stop work order; requiring that
11 certain reports cover a certain period and include copies of certain records;
12 authorizing certain employers to submit a request for a hearing to the Commissioner
13 within a certain time period after receiving a stop work order; requiring that a
14 stop work order become a final order of the Commissioner under certain
15 circumstances; requiring the Commissioner to delegate a certain request for a
16 hearing to the Office of Administrative Hearings for certain purposes; providing that
17 certain employers are entitled to a certain hearing within a certain time period;
18 requiring the Commissioner to provide certain copies of certain evidence to the Office
19 within a certain time period in accordance with certain provisions of law; providing
20 that the Commissioner has a certain burden of proof; requiring that a certain
21 decision by an administrative law judge become the final order of the Commissioner;
22 authorizing certain parties to seek certain judicial appeal and review under certain
23 provisions of law; defining certain terms; and generally relating to the issuance of
24 stop work orders by the Commissioner of Labor and Industry.

25 BY adding to
26 Article – Labor and Employment
27 Section 2–105.1
28 Annotated Code of Maryland
29 (2016 Replacement Volume and 2019 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Labor and Employment

2-105.1.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS
INDICATED.

(2) “CONSTRUCTION SERVICES” HAS THE MEANING STATED IN §
3-901 OF THIS ARTICLE.

(3) “EMPLOYER” MEANS ANY PERSON THAT EMPLOYS AN INDIVIDUAL
FOR THE PURPOSE OF PROVIDING CONSTRUCTION SERVICES IN THE STATE.

(B) (1) WITHIN 72 HOURS AFTER DETERMINING THAT AN EMPLOYER HAS
COMMITTED A SECOND VIOLATION OF TITLE 3, SUBTITLE 4, 5, OR 9 OF THIS
ARTICLE, THE COMMISSIONER SHALL ISSUE A STOP WORK ORDER REQUIRING THE
CESSATION OF ALL BUSINESS OPERATIONS AT EACH WORKSITE WHERE THE
EMPLOYEES WITH RESPECT TO WHOM THE VIOLATION OCCURRED WORKED OR ARE
WORKING.

(2) THE STOP WORK ORDER REQUIRED UNDER PARAGRAPH (1) OF
THIS SUBSECTION SHALL:

(I) TAKE EFFECT WHEN SERVED ON THE EMPLOYER OR WHEN
SERVED AT A WORKSITE; AND

(II) REMAIN IN EFFECT UNTIL THE COMMISSIONER ISSUES AN
ORDER RELEASING THE STOP WORK ORDER UNDER SUBSECTION (D) OF THIS
SECTION.

(C) (1) WITHIN 72 HOURS AFTER DETERMINING THAT AN EMPLOYER HAS
COMMITTED A THIRD VIOLATION OF TITLE 3, SUBTITLE 4, 5, OR 9 OF THIS ARTICLE,
THE COMMISSIONER SHALL ISSUE A STOP WORK ORDER REQUIRING THE CESSATION
OF ALL BUSINESS OPERATIONS OF THE EMPLOYER.

(2) THE STOP WORK ORDER REQUIRED UNDER PARAGRAPH (1) OF
THIS SUBSECTION SHALL:

(I) TAKE EFFECT WHEN SERVED ON THE EMPLOYER; AND

(II) REMAIN IN EFFECT UNTIL THE COMMISSIONER ISSUES AN

1 ORDER RELEASING THE STOP WORK ORDER UNDER SUBSECTION (D) OF THIS
2 SECTION.

3 (D) THE COMMISSIONER SHALL ISSUE AN ORDER RELEASING A STOP WORK
4 ORDER ISSUED UNDER SUBSECTION (B) OR (C) OF THIS SECTION ON A SHOWING BY
5 THE EMPLOYER THAT:

6 (1) THE EMPLOYER IS PROPERLY PAYING EMPLOYEES IN
7 ACCORDANCE WITH TITLE 3, SUBTITLES 4 AND 5 OF THIS ARTICLE OR IS PROPERLY
8 CLASSIFYING EMPLOYEES IN ACCORDANCE WITH TITLE 3, SUBTITLE 9 OF THIS
9 ARTICLE; AND

10 (2) THE EMPLOYER HAS PAID ALL PENALTIES ASSESSED AGAINST THE
11 EMPLOYER BY THE COMMISSIONER UNDER TITLE 3, SUBTITLE 4, 5, OR 9 OF THIS
12 ARTICLE.

13 (E) (1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, AS A
14 CONDITION OF RELEASING A STOP WORK ORDER UNDER THIS SECTION, THE
15 COMMISSIONER MAY REQUIRE THE EMPLOYER TO FILE PERIODIC REPORTS WITH
16 THE COMMISSIONER.

17 (2) THE REPORTS REQUIRED UNDER PARAGRAPH (1) OF THIS
18 SUBSECTION SHALL COVER A 2-YEAR PERIOD AND INCLUDE COPIES OF:

19 (I) THE RECORDS AND REPORTS REQUIRED UNDER § 3-305 OF
20 THIS ARTICLE;

21 (II) THE WAGE RECORDS REQUIRED UNDER § 3-424 OF THIS
22 ARTICLE; AND

23 (III) THE RECORDS REQUIRED UNDER § 3-914 OF THIS ARTICLE.

24 (F) (1) (I) WITHIN 72 HOURS AFTER AN EMPLOYER RECEIVES A
25 STOP WORK ORDER UNDER SUBSECTION (B) OR (C) OF THIS SECTION, THE
26 EMPLOYER MAY SUBMIT A WRITTEN REQUEST FOR A HEARING TO THE
27 COMMISSIONER ON THE STOP WORK ORDER.

28 (II) IF A HEARING IS NOT REQUESTED WITHIN 72 HOURS, THE
29 STOP WORK ORDER SHALL BECOME A FINAL ORDER OF THE COMMISSIONER.

30 (2) IF THE EMPLOYER REQUESTS A HEARING, THE COMMISSIONER
31 SHALL DELEGATE TO THE OFFICE OF ADMINISTRATIVE HEARINGS THE AUTHORITY
32 TO HOLD A HEARING AND ISSUE FINDINGS OF FACT, CONCLUSIONS OF LAW, AND AN

1 ORDER, IN ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT
2 ARTICLE.

3 (3) THE EMPLOYER IS ENTITLED TO A HEARING WITHIN 90 DAYS
4 AFTER A TIMELY REQUEST IS MADE UNDER THIS SUBSECTION, UNLESS THE
5 EMPLOYER WAIVES THAT RIGHT.

6 (4) WITHIN 15 DAYS AFTER A REQUEST, IN ACCORDANCE WITH THE
7 PUBLIC INFORMATION ACT AND THE APPLICABLE REGULATIONS OF THE
8 COMMISSIONER AND THE OFFICE OF ADMINISTRATIVE HEARINGS, THE
9 COMMISSIONER SHALL PROVIDE COPIES OF ALL RELEVANT EVIDENCE, INCLUDING
10 A LIST OF POTENTIAL WITNESSES, ON WHICH THE COMMISSIONER INTENDS TO RELY
11 AT ANY ADMINISTRATIVE HEARING UNDER THIS SUBTITLE.

12 (5) THE COMMISSIONER HAS THE BURDEN OF PROOF TO SHOW THAT
13 AN EMPLOYER HAS FAILED TO PAY EMPLOYEES IN ACCORDANCE WITH TITLE 3,
14 SUBTITLES 4 AND 5 OF THIS ARTICLE OR PROPERLY CLASSIFIED EMPLOYEES UNDER
15 TITLE 3, SUBTITLE 9 OF THIS ARTICLE.

16 (6) A DECISION OF AN ADMINISTRATIVE LAW JUDGE ISSUED IN
17 ACCORDANCE WITH TITLE 10, SUBTITLE 2 OF THE STATE GOVERNMENT ARTICLE
18 SHALL BECOME A FINAL ORDER OF THE COMMISSIONER.

19 (7) ANY PARTY AGGRIEVED BY A FINAL ORDER OF THE
20 COMMISSIONER UNDER THIS SECTION MAY SEEK JUDICIAL REVIEW AND APPEAL
21 UNDER §§ 10-222 AND 10-223 OF THE STATE GOVERNMENT ARTICLE.

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2020.